

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

JOSE M. MENENDEZ
ANGELES MENENDEZ

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 8726

Decision No. CU 6177

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by JOSE M. MENENDEZ on May 6, 1970 in the amount of \$16,022.55 based on the asserted ownership and loss of a bank deposit and other personal property in Cuba. Inasmuch as pursuant to the community property law of Cuba, ANGELES MENENDEZ has an interest in the property subject of the claim, she is added as claimant herein. Both claimants have been nationals of the United States since naturalization each on January 17, 1958.

Although the claim was submitted subsequent to the close of the filing period it is protected by the Commission's action of June 1967 on behalf of United States nationals then in Cuba.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964); 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any

rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term "property" means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

The evidence of record consists primarily of a report from abroad with attached documents relating to a bank account and items of personal property hereinafter more completely described. As to all said items of property the Commission finds that claimants JOSE M. MENENDEZ and ANGELES MENENDEZ each owned a 1/2 interest.

On December 6, 1961, the Cuban Government published in its Official Gazette its Law 989, which effected the confiscation of all assets, personal property and other rights of persons who had left the country. The Commission finds that this law applied to the Menendez family who had left Cuba on December 11, 1968, and that claimants' property was taken by the Government of Cuba on December 11, 1968 pursuant to Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

Although the claim arose subsequent to the close of the period for filing claims of this nature against the Government of Cuba, the Commission has held that it will consider on their merits claims for losses sustained subsequent to the deadline, so long as consideration thereof does not impede the determination of claims which arose prior to the close of the filing period. (See Claim of Vivian Morales, Claim No. CU-8739.)

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

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The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant". This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

The Commission finds that the items of loss and the value at the time of loss are as follows:

1) Bank Account: Claimants owned an account in the amount of 7,573.17 pesos on deposit with the National Bank of Cuba as of December 11, 1968. The pesos were on a par with United States dollars.

2) A 1956 Chevrolet, Belair, four-door sedan: The file does not contain substantiation of the asserted value of \$1,750.00. Based on common business practices this car's value was limited to its salvage worth. In this case the value is found to be \$100.00.

3) Household furniture and effects: Various furnishings including linens, drapes and the like are found to depreciate at a rate of 10 per cent a year, and these had a value of \$150.00. Other furniture and appliances depreciate at a rate of 5 per cent a year and they had a value of \$3,698.39. Clothing, alone, is found to have had a value of \$500.00.

The value of all property is found as \$12,021.56 and each claimant's one-half interest therein was \$6,010.78. The Commission concludes that each claimant sustained a loss in that amount.

The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

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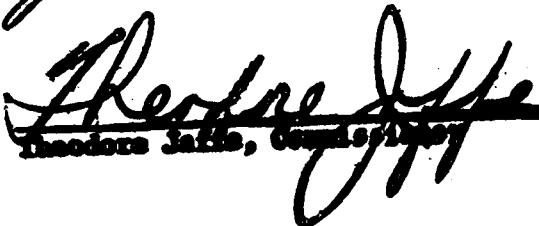
CERTIFICATIONS OF LOSS

The Commission certifies that JOSE M. MENENDEZ suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Six Thousand Ten Dollars and Seventy-Eight Cents (\$6,010.78) with interest thereon at 6% per annum from December 11, 1968 to the date of settlement; and

The Commission certifies that ANGELES MENENDEZ suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Six Thousand Ten Dollars and Seventy-Eight Cents (\$6,010.78) with interest thereon at 6% per annum from December 11, 1968 to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

MAY 5 1971


Lyle S. Garlock, Chairman

Theodore Jaffe, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended (1970).)

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